

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NOT FOR PUBLICATION

EARL WRIGHT,

Plaintiff,

-against-

NEW YORK CITY, et al.,

Defendants.

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MEMORANDUM
AND ORDER
09-CV-2452 (CBA)

AMON, United States District Judge:

On April 14, 2009, plaintiff Earl Wright, incarcerated at the George Motchan Detention Center on Rikers Island, filed this pro se action pursuant to 42 U.S.C. § 1983 alleging violations of his civil rights. On October 13, 2009, plaintiff filed an Amended Complaint and attached thereto an order to show cause for a preliminary injunction and a temporary restraining order seeking to enjoin defendants' use of his DNA sample that he alleges was obtained illegally.

"A party seeking a preliminary injunction ordinarily must show: "(1) a likelihood of irreparable harm in the absence of the injunction; and (2) either a likelihood of success on the merits or sufficiently serious questions going to the merits to make them a fair ground for litigation, with a balance of hardships tipping decidedly in the movant's favor." Doninger v. Niehoff, 527 F.3d 41, 47 (2d Cir. 2008) (citation omitted). In the Second Circuit, the standard for a temporary restraining order is the same as for a preliminary injunction. See, e.g., Local 1814, Int'l Longshoremen's Ass'n, AFL-CIO v. New York Shipping Ass'n, Inc., 965 F.2d 1224, 1228 (2d Cir. 1992) (citation omitted). A temporary restraining order, like a preliminary injunction, is a drastic remedy that will not be granted lightly. See, e.g., Borey v. National Union Fire Ins. Co., 934 F.2d 30, 33-34 (2d Cir. 1991).

Here, plaintiff has not made the requisite showing for such relief; i.e., plaintiff has neither

demonstrated a likelihood of success on the merits nor made a showing of irreparable harm.

Accordingly, plaintiff's proposed order to show cause is denied.

SO ORDERED.

Dated: Brooklyn, New York
October 20, 2009

/S/


CAROL BAGLEY AMON
United States District Judge